

November 13, 1958

NEW HAMPSHIRE LAW LIBRARY

Mr. Paul E. Farnum
Acting Commissioner of Education
State House Annex
Concord, New Hampshire

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CONCORD, N.H.

Dear Mr. Farnum:

This is in reply to your letter of November 12, 1958 in which you observe that in Chapter 293 of the 1957 Session Laws the Legislature appropriated the sum of \$672,000 for the construction of a men's dormitory at Plymouth Teachers College. You state that the new building is to be located on the west side of Highland Avenue directly opposite Mary Lyon Hall which is the main dormitory. Highland Avenue, which is a narrow street, runs between the new dormitory and Mary Lyon Hall, and you state that due to its narrowness this street has always presented a serious parking problem. You inquire whether or not any of the \$672,000 appropriated by Chapter 293 of the Laws of 1957 may be used for the purpose of assisting the town of Plymouth in widening Highland Avenue and providing more adequate parking space on one or both sides. We answer in the negative.

Chapter 293 of the Laws of 1957 contains the capital budget appropriations for the present biennium, and the appropriation for the new dormitory appears in Section 3 which provides as follows:

"293:3 Department of Education. The sum of six hundred eighty-eight thousand two hundred dollars is hereby appropriated for the department of education as follows:

Men's dormitory - Plymouth teachers college	\$672,000
Book store and snack bar - Keene teachers college	<u>16,200</u>
	\$688,200"

We believe it to be manifest that the \$672,000 was appropriated by the Legislature solely for the purpose of construction of a dormitory. Had there been any legislative intent to employ any part of the funds for parking facilities, or for assisting the town of Plymouth in widening the street upon which the new dormitory is to be located, a simple footnote to that effect could easily have been added.

C O P Y

Mr. Paul E. Farnum
Acting Commissioner of Education

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We are reasonably certain that Highland Avenue in Plymouth is a Class V highway, and under RSA 231:8 Class V highways ". . . shall be constructed, reconstructed and maintained by the city or town in which they are located; provided however that town road aid may be used for such purposes. . . ." (emphasis added)

It may be that the equities in this situation are such that the town of Plymouth should receive some State assistance in widening and improving Highland Avenue, but in our opinion such State assistance must be either in the form of town road aid or through special legislation.

Very truly yours,

OTR,Jr/m

George T. Ray, Jr.
Assistant Attorney General